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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 SANDRA VALDEZ,

12 Plaintiff.

13 v.

14 CITY OF WOODLAKE, WOODLAKE
POLICE DEPARTMENT, RICHARD
15 WILLIAMS, individually, and in his official
capacity as Police Officer for the City of
16 Woodlake Police Department, and DOES 1
through 10, inclusive.

17 Defendants.
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CASE NO: 1:05-cv-00326 AWI-SMS

STIPULATED PROTECTIVE
ORDER RE CONFIDENTIAL
INFORMATION; ORDER

20 RECITALS

21 WHEREAS, on or about July 2005, Plaintiff, Sandra Valdez filed a Complaint in this
22 Court alleging various causes of action against the City of Woodlake and former police
23 officer, Richard Williams;

24 WHEREAS, Plaintiff's counsel has sought various documents from the City of
25 Woodlake and the Tulare County District Attorney's Office, which may be privileged and
26 protected from disclosure;
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1 WHEREAS, on December 16, 2005, legal counsel for Plaintiff, Defendant Richard
2 Williams and Tulare County (County Counsel) met with the Court to resolve pending issues
3 concerning discovery; and

4 WHEREAS, after considering the arguments of counsel, the Court's file and upon
5 good cause being shown, the Court ordered the disclosure of certain documents, produced
6 by Tulare County (County Counsel) subject to this protective order.

7 **STIPULATION**

8 IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through
9 their undersigned counsel, that this Court enter into the following Stipulated Protective
10 Order ("Stipulation" or "Stipulated Protective Order") with respect to pre-trial discovery.
11 This Stipulation shall govern the treatment of all documents produced by any party,
12 including in response to any discovery request in this lawsuit entitled *Valdez v. City of*
13 *Woodlake, et al.*, and all copies thereof (the "Discovery Materials").

14 A. **Persons to Whom Confidential Documents May Be Disclosed**

15 1. All of the documents produced by the Tulare County District
16 Attorney's Office through County Counsel on December 16, 2005, although not specifically
17 marked confidential, shall be deemed and designated as such by legal counsel for Defendant
18 Richard Williams and Tulare County District Attorney's Office.

19 2. In the future, during the course of litigation, any party may
20 seek to have other Discovery Materials classified as "Confidential." Any party ("Designating
21 Party") may designate as "Confidential" any Discovery Materials if it/he/she in good faith
22 believes that the Discovery Material contains confidential research, development or
23 commercial information and/or trade secrets and/or protected information under federal
24 or California law. Discovery Materials so designated are referred to herein as "Confidential
25 Materials." Each page of any document designated "Confidential" will be stamped as such
26 by the producing party. Such designation shall be stamped or affixed so as not to obscure or
27 deface the material or any portion of its contents. Should any party, counsel for any party,
28 or any person or entity not a party to this action, who obtains access to all or any material

1 designated as confidential under this Stipulated Protective Order, make copies, duplicates,
 2 or extracts of or from such Confidential Material, or any portion thereof, the designation
 3 "Confidential" shall also be stamped on or affixed to such copies, duplicates or extracts, and
 4 all references in this Stipulated Protective Order shall be deemed to include and apply to
 5 such copies, duplicates and/or extracts of all information derived from Confidential
 6 Material and to Confidential Material marked as Exhibits at depositions or otherwise used
 7 during the litigation. Testimony generated from information designated as "Confidential"
 8 will be identified as such either by a statement on the record or stamping as "Confidential"
 9 documents or selected pages of documents containing such testimony. If either party,
 10 through inadvertence, does not designate certain Discovery Material as "Confidential," but
 11 thereafter determines that such Discovery Material should have been so designated, it shall
 12 provide written notice within 60 days after production, of the designation thereof as
 13 Confidential Material from the date of receipt of such notice. If, later than 60 days after
 14 production, either party discovers that certain Discovery Materials should have been
 15 designated as "Confidential" but were not so designated, the parties shall meet and confer
 16 regarding redesignation of the Discovery Materials as "Confidential" and, if the Parties are
 17 unable to reach an agreement, the parties shall follow the procedures for challenging a
 18 Confidential Designation in paragraph E herein. Likewise, if a party designates certain
 19 Discovery Material as "Confidential" and later determines that such Discovery Material
 20 should not have been so designated, it shall provide written notice of the removal of the
 21 designation along with a duplicate copy of the Discovery Material without the "Confidential"
 22 marking.

23 3. All Confidential Material and any portion thereof, including
 24 copies thereof, information contained therein and any abstracts, extracts, indices,
 25 summaries, charts, notes or other information derived therefrom, shall be deemed
 26 confidential, shall be used solely for the purposes of preparation, trial, appeals or settlement
 27 of this Action, and shall not be disclosed, given, shown, made available discussed or
 28 otherwise communicated in any way to anyone other than: (a) the Court and Court

1 personnel, (b) the parties' legal counsel in this action, (c) stenographic reporters, (d) any
2 expert or consultant retained by the parties' counsel in connection with this Action, and (e)
3 outside vendors who perform microficheing, photocopying or similar clerical functions
4 ("Outside Vendors"). Confidential Material may not be disclosed to any other person or
5 entity without the written consent of the designating party or further order of the Court.
6 Any disclosure should be only to the extent reasonably necessary to effective prosecution
7 and defense of the parties' claims in this Action, and for no other purpose.

8 B. Conditions of Disclosure

9 1. Prior to disclosure of Confidential Material or any information
10 contained therein to a person qualified to receive it under Paragraph A.2, counsel for the
11 party making the disclosure shall secure from each such person an Acknowledgment in the
12 form attached hereto as Exhibit "A" that he or she has read this Stipulated Protective Order,
13 he or she may not, and that he or she undertakes not to, divulge any Confidential Material
14 or any information contained therein except in the preparation, trial or appeal of this action
15 and in accordance with the terms and conditions of the Stipulated Protective Order, and
16 that he or she will not use the material for any other purpose.

17 2. Confidential Material shall be copied only by the parties'
18 counsel in this Action (or by clerical personnel or Outside Vendors assisting such counsel)
19 and only for purposes permitted by this Stipulated Protective Order, and control and
20 distribution of Confidential Material and copies thereof shall be the responsibility of such
21 counsel, who shall maintain a list of all persons to whom Confidential Material has been
22 disclosed as well as the written assurances executed by such persons as provided in
23 paragraph A.2. For good cause shown in connection with any question of improper
24 disclosure, a designating party may request the Court to order a party to disclose in camera
25 a list of all persons to whom Confidential Material has been disclosed as well as the written
26 assurances executed by such persons.

27 C. Protecting Confidential Information at Depositions

28 1. If either party determines that Confidential Material may be disclosed during

1 the course of any deposition, counsel shall be entitled to request that any persona present at
2 the deposition be required to sign an Acknowledgment in the form attached hereto as
3 Exhibit "A."

4 2. If any Confidential Material is marked as an exhibit in a deposition, or
5 during a hearing herein, and/or its content are disclosed, wholly or partially, in the course
6 of the testimony at such deposition or hearing of the portions of such testimony that refer to
7 Confidential Material, and the exhibit itself; as well as the portions of the transcript
8 containing such disclosure, shall be marked "Confidential" and shall be deemed
9 Confidential Material. To this end, the report shall not furnish copies thereof to anyone
10 other than counsel of record for the parties herein, and, if so requested by such counsel, the
11 witness and/or the witness' counsel.

12 D. Use of Confidential Information in Court Filings

13 The parties agree that neither party is required to file pleadings and other paper
14 submitted to the Court pursuant to this litigation under seal, except that the parties agree
15 that any Confidential Material, or any portion thereof; quoted therein or appended thereto,
16 shall be submitted to the Court under seal.

17 E. Challenging a Confidential Designation

18 If at any time during this litigation a party ("Objecting Party") disputes the
19 confidentiality of material designated as Confidential Material, the Objecting Party shall
20 notice the Designating Party in writing by facsimile of such dispute. The Objecting Party's
21 notice shall identify the material in dispute and shall explain the basis for the disputed
22 designation. The Designating Party shall have 7 calendar days to provide a written response
23 by facsimile to the notice, explaining the Designating Party's reason for designating the
24 material at issue as confidential. Should the Objecting Party dispute such reasons, the
25 Objecting Party may submit to the Court or any officer of the Court designated by the Court
26 to hear discovery matters in this litigation: (1) a copy of this Stipulated Protective order; (2)
27 the written notice of dispute; (3) the written response to the notice of dispute; (4) a reply in
28 support of the written notice of dispute; (5) a copy of the material at issue (to be submitted

1 under seal); and (6) a proposed order concerning the confidentiality of the material at issue
2 for resolution by the Court or by any officer of the Court designated by the Court to hear
3 discovery matters in this litigation. Throughout the dispute resolution procedure set out in
4 this paragraph, the Designating Party shall have the burden of demonstrating the material
5 designated is confidential under California law. In the event of a dispute over the
6 confidentiality of particular material, all parties will continue to treat the disputed material
7 as confidential until the Court or an officer of the Court duly designated to hear discovery
8 matters may order otherwise.

9 F. Non-Party Subpoenas

10 If any party receives a request or subpoena from any non-party to this Stipulated
11 Protective Order seeking production or disclosure of Confidential Material, that party (the
12 'Subpoenaed Party') shall give notice, as soon as practicable and in no event more than five
13 business days after receiving the subpoena to counsel for the designating party, which
14 notice shall enclose a copy of the request or subpoena. The Subpoenaed Party shall not
15 produce or disclose any of the designated documents or information for a period of five
16 business days, if possible without violating the subpoena, after providing such notice to
17 other party, and in not event shall such production or disclosure be made before such notice
18 is given. If; within five business days of receiving such notice, the party objects to such
19 production or disclosure, the Subpoenaed Party shall not make production or disclosure
20 except pursuant to a Court order requiring compliance.

21 G. No Restrictions

22 Nothing in this Stipulated Protective Order shall (a) restrict either party's rights with
23 respect to its/his/her own documents or information, (b) restrict either party's right with
24 regard to Discovery Materials that have not been designated as Confidential, (c) prejudice
25 either party's rights to object to the production of documents or other information that it
26 considers not subject to discovery, or (d) prejudice either party's right to seek, either by
27 agreement or by application to the Court, greater or lesser protection than that provided
28 herein, or modification of the terms of this Stipulated Protective Order.

1 H. Return to Confidential Materials

2 Within 60 days after the conclusion of this Action and with notice from the
3 respective producing party, all materials designated as Confidential Material shall be
4 returned to the producing party. This provision shall not apply to court filings or file copies
5 of pleadings, briefs or correspondence maintained by the parties' respective counsel in the
6 ordinary course of business.

7 I. Binding Effect

8 This Stipulation shall remain in full force and effect at all times during which any
9 party Stipulated Protective Order or any person having executed the acknowledgement
10 described above retains in his, her, or its possession, custody or control any Confidential
11 Material.

12 J. Additional Parties to Lawsuit

13 In the event that other parties may be added to this Action, no Confidential Material
14 previously exchanged, produced or used herein shall be disclosed to such additional parties
15 or their counsel except upon their agreeing to be bound by the provisions of this Stipulated
16 Protective Order.

17 K. Additional Rights

18 This Stipulated Protective Order is without prejudice to the right of any party to
19 move the Court for an order for good cause shown for protection of Confidential Material
20 sought by or produced through discovery, which protection is different form or in addition
21 to that provided for in this Stipulated Protective Order, and such right is expressly reserved.
22 Similarly, each party expressly

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15 reserves the right at any time to request the Court to authorize disclosure other than
16 contemplated hereunder of materials subject to this Stipulated Protective Order.

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18 Dated: January 5, 2006

KAPETAN BROTHERS

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20 By /s/ Peter N. Kapetan

PETER N. KAPETAN

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Attorneys for Plaintiff,
SANDRA VALDEZ

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23

24 Dated: January 5, 2006

DOOLEY HERR & PELTZER, LLP

25

26 By: /s/ Leonard C. Herr

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LEONARD C. HERR
Attorneys for Defendant,
RICHARD WILLIAMS

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Dated: January 5, 2006 TULARE COUNTY DISTRICT ATTORNEY

By: /s/ Teresa Saucedo
TERESA SAUCEDO
TULARE COUNTY COUNSEL
DEPUTY COUNTY COUNSEL

ORDER

The terms of the above Stipulation are so ordered.

Dated: 1/12/2006 By: /s/ Sandra M. Snyder
Magistrate Judge of the United States District Court,
Eastern District of California

EXHIBIT "A"

ACKNOWLEDGEMENT

I hereby acknowledge my understanding that confidential research, development or commercial information and/or trade secrets and/or protected information under California law ("Confidential Material") is being provided to me under the terms and restrictions of the Protective Order dated _____, 2006, in *Valdez v. City of Woodlake, et al.*, United States District Court Case No. 1:05-cv-00326 AWI-SMS. I have been given a copy of that Protective Order and have read it. I agree to be bound by the Protective Order. I will not reveal the Confidential Material to anyone, or use the Confidential Material or information derived therefrom, in any capacity, except as allowed by the Protective Order.

Dated: _____ 2006

Signature

Print Name